

AMENDED IN ASSEMBLY JUNE 11, 2014

AMENDED IN SENATE MARCH 12, 2014

SENATE BILL

No. 944

Introduced by Senator Torres

February 5, 2014

An act to amend Sections 11011.1 and 11011.15 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 944, as amended, Torres. Surplus state property.

Existing law requires the Department of General Services to dispose of surplus state real property in a specified manner, including, but not limited to, prescribing the priority of disposition of the property before the department offers it for sale to private entities or individuals. Existing law declares that the provision of decent housing for all Californians is a state goal of the highest priority and that priority be given to the disposal of surplus state real property to housing for persons and families of low or moderate income.

This bill would add to those goals the creation of sustainable jobs and state the intent that priority be given to the disposal of surplus state real property to the development of projects that create sustainable employment opportunities of benefit to the area and region where the property is ~~located~~. *located when the property is suitable for those purposes. The bill would require the department, when disposing of surplus state real property, to give the same priority to a local agency that intends to use the property for the development of projects that create sustainable employment opportunities of benefit to the area and region where the property is located, as to a local agency that intends to use the property for affordable housing projects.* ~~This~~

The bill would, notwithstanding any other law, prohibit a local government from ~~prezoning~~, zoning, or rezoning state real property within its jurisdiction that is declared surplus or identified as unused, underutilized, partially utilized, or excess, unless the Department of General Services requests that the property be rezoned or approves the rezoning. ~~This~~ *The bill would also make technical, nonsubstantive changes to these provisions.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11011.1 of the Government Code is
2 amended to read:
3 11011.1. (a) Notwithstanding any other law, except Article
4 8.5 (commencing with Section 54235) of Chapter 5 of Part 1 of
5 Division 2 of Title 5, the disposal of surplus state real property by
6 the Department of General Services is subject to the requirements
7 of this section. For purposes of this section, “surplus state real
8 property” means real property declared surplus by the Legislature
9 and directed to be disposed of by the Department of General
10 Services, including any real property previously declared surplus
11 by the Legislature but not yet disposed of by the Department of
12 General Services prior to the enactment of this section.
13 (b) (1) The department may dispose of surplus state real
14 property by sale, lease, exchange, a sale combined with an
15 exchange, or other manner of disposition of property, as authorized
16 by the Legislature, upon any terms and conditions and subject to
17 any reservations and exceptions the department deems to be in the
18 best interests of the state.
19 (2) (A) The Legislature finds and declares that the provision
20 of decent housing for all Californians and the creation of
21 sustainable jobs are state goals of the highest priority. The disposal
22 of surplus state real property is a direct and substantial public
23 purpose of statewide concern and will serve an important public
24 purpose, including mitigating the environmental effects of state
25 activities. Therefore, it is the intent of the Legislature that priority
26 be given, as specified in this section, to the disposal of surplus
27 state real property to housing for persons and families of low or
28 moderate income, where land is suitable for housing and there is

1 a need for housing in the community, and to the development of
2 projects that create sustainable employment opportunities of benefit
3 to the area and region where the property is ~~located~~. *located when*
4 *the property is suitable for those purposes.*

5 (B) Surplus state real property that has been determined by the
6 department not to be needed by any state agency shall be offered
7 to any local agency, as defined in subdivision (a) of Section 54221,
8 and then to nonprofit affordable housing sponsors, before being
9 offered for sale to private entities or individuals. As used in this
10 subdivision, “nonprofit affordable housing sponsor” means any
11 of the following:

12 (i) A nonprofit corporation incorporated pursuant to Division
13 2 (commencing with Section 5000) of Title 1 of the Corporations
14 Code.

15 (ii) A cooperative housing corporation which is a stock
16 cooperative, as defined by Section 11003.2 of the Business and
17 Professions Code.

18 (iii) A limited-dividend housing corporation.

19 (C) The department, subject to this section, shall maintain a list
20 of surplus state real property in a conspicuous place on its Internet
21 Web site. The department shall provide local agencies and, upon
22 request, members of the public, with electronic notification of
23 updates to the list of properties.

24 (D) To be considered as a potential priority buyer of the surplus
25 state real property, a local agency or nonprofit affordable housing
26 sponsor shall notify the department of its interest in the surplus
27 state real property within 90 days of the department posting on its
28 Internet Web site the notice of the availability of the surplus state
29 real property. The local agency or nonprofit affordable housing
30 sponsor shall demonstrate, to the satisfaction of the department,
31 that the surplus state real property, or portion of that surplus state
32 real property, is to be used by the local agency or nonprofit
33 affordable housing sponsor for open space, public parks, affordable
34 housing projects, *development of projects that create sustainable*
35 *employment opportunities of benefit to the area and region where*
36 *the property is located*, or development of local government-owned
37 facilities. If more than one local agency expresses an interest in
38 the surplus state real property, priority shall be given to the local
39 agency that intends to use the surplus state real property for
40 affordable housing; *housing or development of projects that create*

1 *sustainable employment opportunities of benefit to the area and*
2 *region where the property is located.* If no agreement or transfer
3 of title occurs, the priority shall next be given to the local agency
4 that intends to use the surplus state real property for open space,
5 public parks, or development of local government-owned facilities.
6 The sales agreement shall be executed by the local agency or
7 nonprofit affordable housing sponsor within 60 days after the
8 director determines the local agency or nonprofit affordable
9 housing sponsor is to receive the surplus state real property. The
10 sale of the surplus state real property to a local agency or nonprofit
11 affordable housing sponsor pursuant to this section shall be
12 completed, and title transferred, within 60 days of the date the
13 department executes the sales agreement, or, if required by law,
14 no later than 60 days after the State Public Works Board has
15 authorized the sale. If the sale of a surplus state real property to a
16 local agency or nonprofit affordable housing sponsor is not
17 completed within the timeframe specified in this subparagraph,
18 then the department shall proceed with the process for disposal to
19 other private entities or individuals.

20 (c) (1) If more than one local agency desires the surplus state
21 real property for use as an open space, a public park, or the
22 development of a local government-owned facility, the department
23 shall transfer the surplus state real property to the local agency
24 offering the highest price above fair market value. If more than
25 one local agency desires the surplus state real property for use as
26 an affordable housing project, the department shall transfer the
27 surplus state real property to the local agency offering the greatest
28 number of affordable housing units. If more than one nonprofit
29 affordable housing sponsor desires the surplus state real property
30 for use as an affordable housing project, the department shall
31 transfer the surplus state real property to the nonprofit affordable
32 housing sponsor offering the greatest number of affordable housing
33 units.

34 (2) If no local agency or nonprofit affordable housing sponsor
35 is interested, or an agreement, as provided above, is not reached,
36 then the disposal of the surplus state real property to private entities
37 or individuals shall be pursuant to a public bidding process
38 designed to obtain the highest most certain return for the state from
39 a responsible bidder, and any transaction based on such a bidding

1 process shall be deemed to be the fair market value for the purposes
2 of the reporting requirements pursuant to subdivision (d).

3 (3) Notwithstanding any other law, the department may sell
4 surplus state real property, or a portion of surplus state real
5 property, to a local agency, or to a nonprofit affordable housing
6 sponsor if no local agency is interested in the surplus state real
7 property, for affordable housing projects at a sales price less than
8 fair market value if the department determines that such a discount
9 will enable the provision of housing for persons and families of
10 low or moderate income. Nothing shall preclude a local agency
11 that purchases the surplus state real property for affordable housing
12 from reconveying the surplus state real property to a nonprofit
13 affordable housing sponsor for development of affordable housing.
14 Transfer of title to the surplus state real property or lease of the
15 surplus state real property for affordable housing shall be
16 conditioned upon continued use of the surplus state real property
17 as housing for persons and families of low and moderate income
18 for at least 40 years and the department shall record a regulatory
19 agreement that imposes affordability covenants, conditions, and
20 restrictions on the surplus state real property. The regulatory
21 agreement shall be a first priority lien on the surplus state real
22 property and last for a period of at least 40 years, and if another
23 state agency is lending funds for a project, a combined regulatory
24 agreement shall be utilized. Notwithstanding any other provision
25 of law, the regulatory agreement shall not be subordinated to any
26 other lien or encumbrance except for any federal loan program the
27 statutes or regulations of which require a first priority lien for that
28 federal loan.

29 (4) Notwithstanding any other law, the Director of General
30 Services may transfer surplus state real property to a local agency
31 for less than fair market value if the local agency uses the surplus
32 state real property for parks or open-space purposes. The deed or
33 other instrument of transfer shall provide that the surplus state real
34 property would revert to the state if the use changed to a use other
35 than parks or open-space purposes during the period of 25 years
36 after the transfer date. For the purpose of this paragraph,
37 “open-space purposes” means the use of land for public recreation,
38 enjoyment of scenic beauty, or conservation or use of natural
39 resources.

(d) Thirty days prior to executing a transaction for a sale, lease, exchange, a sale combined with an exchange, or other manner of disposition of the surplus state real property for less than fair market value or for affordable housing, or as authorized by the Legislature, the Director of General Services shall report to the chairpersons of the fiscal committees of the Legislature all of the following:

(1) The financial terms of the transaction.

(2) A comparison of fair market value for the surplus state real property and the terms listed in paragraph (1).

(3) The basis for agreeing to terms and conditions other than fair market value.

(e) As to surplus state real property sold or exchanged pursuant to this section, the director shall except and reserve to the state all mineral deposits, as described in Section 6407 of the Public Resources Code, together with the right to prospect for, mine, and remove the deposits. If, however, the director determines that there is little or no potential for mineral deposits, the reservation may be without surface right of entry above a depth of 500 feet, or the rights to prospect for, mine, and remove the deposits shall be limited to those areas of the surplus state real property conveyed that the director determines to be reasonably necessary for the removal of the deposits.

(f) The failure to comply with this section, except for subdivision (d), shall not invalidate the transfer or conveyance of surplus state real property to a purchaser for value.

(g) For purposes of this section, fair market value is established by an appraisal and economic evaluation conducted by the department or approved by the department.

SEC. 2. Section 11011.15 of the Government Code is amended to read:

11011.15. (a) The Department of General Services shall maintain a complete and accurate statewide inventory of all real property held by the state and categorize that inventory by agency and geographical location. The inventory shall include all information furnished by agencies pursuant to subdivision (b) and the University of California pursuant to Section 11011.17. The inventory shall be updated annually.

(b) Each agency shall furnish the department, in the format specified by the department, a record of each parcel of real property

1 that it possesses. Each agency shall update its real property
2 holdings through December 31 of the previous year, reflecting any
3 changes, by July 1 of each year. This record shall include, but is
4 not limited to, all of the following information:

5 (1) The location of the property within the state and the county,
6 the size of the property, including its acreage, and any other
7 relevant property data which the department deems necessary.
8 This latter requirement shall be uniformly applied to all agencies.

9 (2) The date of the acquisition of the real property, if available.

10 (3) The manner in which the property was acquired and the
11 purchase price, if available.

12 (4) A detailed description of the current uses of the property,
13 including specific programmatic uses, and whether the property
14 is fully utilized, partially utilized, or excess, with regard to either
15 an existing or ongoing program of the agency. The agency shall
16 also provide a detailed description of every lease, license, or other
17 agreement relating to the use of the property.

18 (5) Any projected future uses of the property during the next
19 five years, as identified pursuant to the five-year infrastructure
20 plan or the agency's master plan. If the property is not included
21 in the five-year infrastructure plan or the agency's master plan, or
22 is identified as partially utilized or excess pursuant to paragraph
23 (4), the agency shall provide detailed information regarding the
24 need to continue ownership or management of the property. In the
25 case of land held for state park use, for which the projected use
26 would exceed a five-year period, the projected use and estimated
27 date of construction or use shall be furnished.

28 (6) A concise description of each major structure located on the
29 property.

30 (7) The estimated value of real property declared surplus by the
31 agency and real property where the agency has not identified a
32 current or potential use.

33 (c) The department shall prepare a separate report and shall
34 update the report annually of all properties declared surplus or
35 properties with no identified current or projected use. The report
36 shall be made available upon request.

37 (d) The head of each agency shall also certify, on or before July
38 1 annually, that the agency has accurately and completely reported
39 all property information required by this section and that it has
40 identified any excess property pursuant to Section 11011. The

- 1 Department of General Services shall maintain the certification
- 2 notices in a conspicuous place on its Internet Web site.
- 3 (e) Notwithstanding any other law, a local government that has
- 4 state real property within its jurisdiction that is declared surplus
- 5 or identified as unused, underutilized, partially utilized, or excess
- 6 pursuant to this section, or Section 11011, shall not *prezone*, *zone*,
- 7 *or* rezone the property, unless the Department of General Services
- 8 requests that the property be rezoned or approves the rezoning of
- 9 the property.